

Notice of Allowability

Application No.

09/986,629

Examiner

Hector M Reyes

Applicant(s)

MONTEIL ET AL.

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/12/04.
2. ☒ The allowed claim(s) is/are 1-17.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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DETAILED ACTION

Status of the Claims

Claim 13 has been amended. New claim 17 has been added. Claims 1-2, 10-11 and 14-16 have been under Examination. The Examiner hereby re-join claims 3-9 and 12 in view of the allowability of independent claim 1. Currently, claims 1-17 are under Examination.

Allowance

The following is an examiner's statement of reasons for allowance.

In claims 1-17, Applicants claim a process for the preparation of derivatives embraced by formula (I, comprising the reaction of thioacid of formula IV with the acrylamide of formula (V) and having the limitations described in the said claims.

No prior art disclosing the instant invention was found. The closest art, relevant to Applicant process was found described on Wetzel et al, US patent 4,401, 667 and Greenberg et al, US patent 4,474,799.

The above references disclose the preparation of thio carboxamide derivatives, described as formula (1). The said derivatives obtained by reacting the thio acid of formula (VII) with the acid form of the corresponding acrylamide of formula (VI) as described in col. 3, 677 and 799.

None of the above cited references discloses the use of the corresponding ester of the acrylamide (VI) or disclosed the preparation of compounds outlined in claims 15 and 16 as described in the instant claims.

Regarding the acrylamide required in the preparation of the target compound, the use of the ester derivative in place of the acid derivative as taught in the prior art is not obvious in view of

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Applicant's second declaration wherein it is shown that unexpected results are obtained by following Applicant's process. For instance, the yield as well as purity of the product obtained by using the ester derivative of the acrylamide are considerable higher than when using the acid derivative, as taught in the prior art or record.

CONCLUSION

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

All post-Allowance Correspondence concerning this Application must be mailed to:

**BOX ISSUE FEE
COMMISSIONER FOR PATENTS
WASHINGTON, DC 20231**

Or you can fax them to the Office of Patent Publications at 703-308-5083, in order to expedite the handling of such correspondence as amendments under 37 CFR 1.312; information disclosure statements, and formal drawings. Sending Post-Allowance papers to Technology Center 1600 will only cause delays in matching papers with the case.

For information concerning status of correspondence sent after receipt of the Notice of Allowance, please contact the Correspondence Branch at (703) 305-8027.

Héctor M. Reyes, PhD JD
Reg. # 54846
AU 1625
September 15, 2004


**RITA DESAI
PRIMARY EXAMINER**

9/15/04